

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2013-99**

12 **MARIA G. MCCOY**
13 **1020 Norte Vista**
14 **San Marcos, CA 92078**

A C C U S A T I O N

15 **Registered Nurse License No. 525776**

16 **Respondent.**

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18 **Complainant alleges:**

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about August 27, 1996, the Board of Registered Nursing issued Registered
24 Nurse License Number 525776 to Maria G. McCoy (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 August 31, 2014, unless renewed.
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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY AND REGULATORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct . . .

7. Title 16, California Code of Regulations, section 1444 states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL ALLEGATIONS

9. Respondent was employed as a registered nurse at Scripps Clinic Torrey Pines Dermatology in La Jolla, California. E.R., a then eighty four year old male who suffered from dementia and tremors, was a patient at that clinic. Respondent developed a social relationship with E.R. and assisted E.R. with transporting him to medical appointments and banking institutions. Respondent also assisted E.R. with paying his bills because E.R. suffered from a central tremor which caused his hands to shake uncontrollably. As the relationship progressed, E.R. made her the beneficiary of his estate, nominated her as the executor of his estate and gave her a durable power of attorney for his health care and financial decisions.

10. E.R. asked Respondent to maintain certain funds to pay for his "health care, as [his] life diminish[e]d" but requested that Respondent refrain from spending those funds during his lifetime, writing that Respondent "refrain from spending this/these checks while I am alive." Respondent eventually co-mingled approximately \$82,850 from E.R. with the funds in a bank account she maintained for her own mother's future healthcare needs. When Respondent learned that E.R. believed she was stealing money from him, she returned \$75,000 held in her bank account to him via a wire transfer. She also charged him over \$5,500 for "home health care" services, including the fees to draft the power of attorney (\$98), the cost to notarize his will (\$47.59) and the supposed costs of purchasing a television (\$614.11), a chenille sofa (\$500.00) and a wicker chair with a cushion (\$150.00) for him. She reimbursed herself for those "home health care expenses" from E.R.'s remaining funds in her bank account. On September 10, 2010, E.R. filed a complaint with the Carlsbad Police Department.

11. Respondent violated the nurse/patient relationship for her own benefit, when she co-mingled large sums of monetary funds from an elderly patient suffering from dementia, became

1 the executor and beneficiary to his estate and obtained a durable power of attorney, as detailed in
2 paragraphs 9-10, above. Nurse/patient relationships have, as their foundation, the goal of
3 alleviating suffering, and protecting and promoting the health and safety of the patient.
4 Respondent was unethical in that she failed to respect the dignity of her patient, or protect his best
5 interests and failed to maintain appropriate boundaries. Respondent exploited the patient's
6 reliance on her for care and companionship, co-mingled the patient's funds with her own,
7 obtained a durable power of attorney and became the beneficiary and executor of his estate.
8 Respondent's actions exhibited extremely poor judgment, and they violated the moral and ethical
9 standards of the nursing profession.

10 **CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct)**

12 12. Respondent is subject to disciplinary action under Code section 2761(a), within the
13 meaning of title 16, California Code of Regulations section 1444(c), as set forth in paragraphs 9-
14 11 above, in that she:

- 15 a. failed to safeguard her elder patient's property and money;
- 16 b. failed to maintain appropriate professional boundaries which resulted in a
17 conflict of interest;
- 18 c. misappropriated and co-mingled money and property from her elder patient.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

- 22 1. Revoking or suspending Registered Nurse License Number 525776, issued to Maria
23 G. McCoy;
- 24 2. Ordering Maria G. McCoy to pay the Board of Registered Nursing the reasonable
25 costs of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: August 8, 2012 Stacie Ben
for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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